



PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Notices Following a Substantial Cessation of Operations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of a collection of information that is necessary to fulfill various reporting obligations following a cessation of operations at a facility. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function. A copy of the request will be posted on PBGC's web site at <https://www.pbgc.gov/prac/laws-and-regulation/federal-register-notices-open-for-comment>. It may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC, 1200 K Street, NW, Washington, DC 20005-4026; or, calling 202-229-4040 during normal business hours. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (rifkin.melissa@pbgc.gov), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington DC 20005-4026; 202-229-6563. If you are deaf,

hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Section 4062(e) of the Employee Retirement Income Security Act of 1974 (ERISA) imposes reporting obligations in the event of a “substantial cessation of operations.” A substantial cessation of operations occurs when a permanent cessation at a facility causes a separation from employment of more than 15 percent of all “eligible employees.” “Eligible employees” are employees eligible to participate in any of the facility’s employer’s employee pension benefit plans. Following a substantial cessation of operations, the facility’s employer is treated, with respect to its single-employer pension plans covered by title IV of ERISA that are covering participants at the facility, as if the employer were a withdrawing substantial employer under a multiple employer plan. Under section 4063(a) of ERISA, the Pension Benefit Guaranty Corporation (PBGC) must receive notice of the substantial cessation of operations and a request to determine the employer’s resulting liability. To fulfill such resulting liability, the employer may elect, under section 4062(e)(4)(A), to make additional contributions annually for seven years to plans covering participants at the facility where the substantial cessation of operations took place. Under sections 4062(e)(4)(E)(i)(I), (II), (III), (IV), and (V) respectively, an employer that is making the election for annual additional contributions must give notice to PBGC of: (1) its decision to make the election, (2) its payment of an annual contribution, (3) its failure to pay an annual contribution, (4) its receipt of a funding waiver from the Internal Revenue Service, and (5) the ending of its obligation to make additional annual contributions.

PBGC is requesting that OMB extend approval of a form series, consisting of Form 4062(e)-01, Form 4062(e)-02, Form 4062(e)-03, and Form 4062(e)-04, that is used to fulfill these reporting obligations. An employer or a plan administrator files Form 4062(e)-01 to notify PBGC of the occurrence of a substantial cessation of operations and request a determination of the employer’s liability. An employer files Form 4062(e)-02 to notify PBGC that it made the

elections to pay annual additional contributions to a plan. An employer files Form 4062(e)-03 to notify PBGC that it paid an annual additional contribution, received a funding waiver from the Internal Revenue Service, or is no longer obligated to pay additional annual contributions. Finally, an employer files Form 4062(e)-04 to notify PBGC that it failed to pay an additional annual contribution to the plan.

PBGC needs the information requested in the forms and notification (1) to determine an employer's liability to a plan following a substantial cessation of operations and (2) to ensure that an employer that made the election of additional annual contributions is fulfilling its payment obligations.

PBGC is proposing a modification to the wording of question 3 in Form 4062(e)-02 and adding an explanation to page 7 of the instructions. These modifications are intended for purposes of clarity, and they will not affect burden.

The collection of information has been approved by OMB under control number 1212-0073 (expires August 31, 2022). On May 9, 2022, PBGC published in the Federal Register (at 87 FR 27666) a notice informing the public of its intent to request an extension of this collection of information. No comments were received. PBGC is requesting that OMB extend its approval for another 3 years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that, over the next 3 years, 5 forms in this series will be submitted each year. PBGC estimates that these forms would be completed by a combination of plan office staff and outside professionals: attorneys and actuaries. PBGC estimates a total annual hour burden of 38.5 hours. PBGC estimates a total annual cost burden of \$39,415.

Issued in Washington, DC, by:

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs,

Pension Benefit Guaranty Corporation.

